

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of ) Case No.: **12-N-10126-DFM**  
)  
**PATRICIA JOAN ESCOBAR,** ) **DECISION AND ORDER OF**  
) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**  
)  
Member No. **165758,** )  
)  
A Member of the State Bar. )

Respondent Patricia Joan Escobar (Respondent) was charged with violating California Rules of Court, rule 9.20(c), by willfully disobeying or violating a court order requiring compliance with rule 9.20. She failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

---

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to the practice of law in California on September 15, 1993, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On February 2, 2012, the State Bar properly filed and served an NDC on Respondent by certified mail, return receipt requested, at her membership records address. The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The United States Postal Service returned the NDC as undeliverable.

Prior to sending the NDC, the State Bar mailed a letter to Respondent at her membership records address. A return card was received by the State Bar with an illegible signature. The State Bar also attempted to reach Respondent by telephone at her official membership records telephone number, but was informed that Respondent no longer worked in that building. As Respondent was on disciplinary probation, the State Bar contacted the assigned probation deputy to ascertain whether Respondent's profile contained any other addresses. The State Bar learned that Respondent had an email address. On January 31, 2012, the State Bar sent an email with a letter to Respondent at the email address of which it had been advised. The State Bar did not receive a response to its email.

Thereafter, the State Bar conducted an online public records search, which ultimately identified two possible addresses for Respondent in Chatsworth, California. On March 22, 2012, the State Bar sent a courtesy copy of the NDC to each of the two possible Chatsworth addresses.

On April 9, 2012, the State Bar also called directory assistance for the area which includes Respondent's official membership records address. Directory assistance had no listing for Respondent other than the one that had been previously tried by the State Bar. The State Bar additionally requested listings for Respondent in Chatsworth, California. Directory assistance had no listing for Respondent.

Respondent failed to file a response to the NDC. On April 13, 2012, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on May 4, 2012. The order entering the default was served on Respondent at her membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On November 14, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that (1) it has had no contact with Respondent since the default was entered; (2) there are no other disciplinary matters pending against Respondent; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made payments resulting from Respondent's

conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on December 19, 2012.

Respondent has been disciplined on one prior occasion.<sup>3</sup> Pursuant to a Supreme Court order filed on October 19, 2011, Respondent was suspended for one year, the execution of which was stayed, and she was suspended from the practice of law for a minimum of 90 days and until the State Bar Court grants a motion to terminate her suspension. In this default matter, Respondent was found culpable of three counts of misconduct, including failing to provide an appropriate accounting of client funds, failing to release the client file to the client upon termination of employment at the client's request, and failing to cooperate and participate in a State Bar disciplinary investigation.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

#### **Case No. 12-N-10126 – (Rule 9.20 Matter)**

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of a Supreme Court order requiring compliance with California Rules of Court, rule 9.20.

---

<sup>3</sup> The court admits into evidence the certified copy of Respondent's prior record of discipline that is attached as exhibit 1 to the State Bar's November 14, 2012 petition for disbarment after default.

## **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and Respondent's disbarment is recommended. In particular:

(1) the NDC was properly served on Respondent under rule 5.25;

(2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of her default, as the NDC, among other things, was served on Respondent at her official membership records address by certified mail, return receipt requested; and the State Bar attempted to contact Respondent by telephone, email, and first-class mail at her membership records address and two other possible addresses for Respondent;

(3) the default was properly entered under rule 5.80; and

(4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that Respondent Patricia Joan Escobar be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and

(c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

**Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Patricia Joan Escobar, State Bar number 165758, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: March \_\_\_\_\_, 2013

\_\_\_\_\_  
DONALD F. MILES  
Judge of the State Bar Court